

REMARKS

Amendments

Reconsideration of this application is respectfully requested in the light of the amendments and remarks.

No additional claims have been added. Claims 1, 7, 12, 16, 20, 28, 34 and 39 have been amended. It is respectfully submitted that no new matter has been added and entry into the record and examination on the merits is respectfully requested.

Claim 1 has been amended to incorporate limitations as to the various acts being performed by a *further* process (i.e. by one process) other than the claimed "network process" (irrespective of whether before and/or after the *claimed* "network process" has restarted). It is respectfully submitted that this is merely making explicit a limitation that was already implicit. However, since the Office Action shows no sign of having taken into account that implicit limitation, it has been made explicit. It is respectfully submitted that therefore this is a clarification and not a narrowing of claim 1. Support for the new limitations of claim 1 may be found, *inter alia*, in para [0053] and Fig.11 of the application as originally filed (network process 903).

Claims 7, 12, 16, 20, 28, 34 and 39 have been amended in a manner analogous to claim 1 and find similar support in the application.

Claim Rejections of Independent Claims under 35 USC §103(a)

The Office Action has rejected (*inter alia*) independent claims 1-11 and 26-42 35 USC §103(a) as being unpatentable over US Patent No. 6,693,450 issued to Kidder et

al. (hereinafter Kidder) in view of Applicant's admitted Prior Art (AAPA) and further in view of US Patent No. 6,049,838 issued to Miller et al. (hereinafter Miller).

Claim 1. As to claim 1, it has been amended to make explicit the previously implicit limitation that the method is performed by and for a process other than the process that dies (and then restarts).

It is respectfully submitted that the Office Action does not show that Kidder in view of AAPA and further in view of Miller discloses, teaches or renders obvious all the limitations of claim 1. For example, claim 1 recites, in part, "... *receiving a **first** set of data **from a network process**; ...synchronizing the first set of data with a second set of data if the time period does not expire, the **second** set of data received from **the network process**...*". (emphasis added).

Thus, it is respectfully submitted that the Office Action has not properly taken into account the restriction that at least Claim 1 requires that the first **and the second** set of data respectively **come from** the network process before it dies and **the restarted network process**. In contrast, the Office Action indicates on Page 2 (near bottom) in the "Response to Arguments" section that (in Kidder) the **second set of data comes from the "associated processes"** (see in the Office Action, "*the dynamic state of the associated processes is equivalent to the second set of data received after the process restarts.*") It is respectfully submitted that, in Kidder, that first and second set of data come from two **different** processes. And that, as to "...the second set of data ..." this is not equivalent - that is, data from the restarted process (as claimed in claim 1) is not equivalent to data from non-restarted processes (the "associated processes") as in the Office Action's recital of Kidder.

Also, still with reference to claim 1, the two sets of data are being synchronized “for the non-restarted process” in claim 1 (et al.), as contrasted with “for the restarted process” as in Kidder). To explain further, Kidder’s synchronization may be characterized as being synchronization of data from the back up (from the dead process) and data from the other processes (i.e. not the dead process) to create data for the restarted process (See Kidder, col.4, lines.2-6 reproduced here - “The backup state represented the last known active or dynamic state of the processor processes prior to termination, and retrieving this state from the line card allows the restarting processes on the line card to quickly resynchronize and continue operating.”)

The distinction is important, to express in other words - in Kidder the “*other*” processes data are not being “brought up to speed” (i.e., are not being synchronized), **instead**, it is the *restarted* process(es) that are being “brought up to speed” (i.e., are being synchronized).

Claim 1 stands in stark contrast. In claim 1, the sets of data **both** come from the dead/restarted process it is clear they are not being synchronized **for** the restarted process, but are being synchronized by the **non-restarted** process for the **non-restarted** process – i.e. in Claim 1, a second network process (previously implicit in claim 1 and explicit in others of the dependent claims, now made explicit throughout by amendment), which was a recipient of data from a first network process before the first network process died, is trying to “hang on to” that data after learning the first network process is dead, and then the second network process synchronizes the data it received from the dead process with the data it receives from the restarted process. It is crucial to grasp that the second network process is performing synchronization for

itself, that is for the **second** network process (THE NON-RESTARTED NETWORK PROCESS), unlike the methods of Kidder.

By way of example, and not limitation, see the description at paragraphs 44-46 in specification of the application as originally filed.

Therefore, it is respectfully requested that the rejection of claim 1 under 35 USC §103(a) as being rendered obvious by Kidder in view of AAPA and further in view of Miller should be withdrawn.

Further as to Claim 1, The Examiner has written "*... Kidder et al. in view of AAPA does not teach synchronizing the first set of data with a second set of data if the time period does not expire ...*". The examiner goes onto to alleged that such a limitation is taught by Miller which is unclear and not admitted. But even if this limitation were taught by Miller in the places alleged, the examiner has used impermissible hindsight in combining the references. The Examiner has written "*... Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the distributed process redundancy of Kidder et al. in view of AAPA by synchronizing the first set of data with a second set of data if the time period does not expire **because this allows to system to only maintain fresh information versus synchronizing stale information with current information....***". A grammatical argument would have been preferred, however, as best understood, the Examiner is suggesting a motivation to combine that produces a result which is non-operable in that "*to **only maintain fresh information***" is precisely what the claimed synchronization is intended to avoid (along with the associated disadvantages of doing that.).

Claims 2-6. As to claims 2-6, it is respectfully submitted that claims 2-6 are dependent, directly or indirectly, upon claim 1 therefore it is respectfully submitted that claims 2-6 are allowable for at least the same reasons as claim 1.

Claim 7. Claim 7 has been amended in a manner analogous to Claim 1 and it is respectfully submitted that claim 7 is allowable for at least substantially the same reasons as claim 1.

Claims 8-11. As to claims 8-11, it is respectfully submitted that claims 8-11 are dependent, directly or indirectly, upon claim 7 therefore it is respectfully submitted that claims 8-11 are allowable for at least the same reasons as claim 7.

Claim 12. Claim 12 has been amended in a manner analogous to Claim 7 and it is respectfully submitted that claim 12 is allowable for at least substantially the same reasons as claim 7.

Claims 13-15. As to claims 13-15, it is respectfully submitted that claims 13-15 are dependent, directly or indirectly, upon claim 12 therefore it is respectfully submitted that claims 13-15 are allowable for at least the same reasons as claim 12.

Claim 16. Claim 16 has been amended in a manner analogous to Claim 12 and it is respectfully submitted that claim 16 is allowable for at least substantially the same reasons as claim 12.

Claims 17-19. As to claims 17-19, it is respectfully submitted that claims 17-19 are dependent, directly or indirectly, upon claim 16 therefore it is respectfully submitted that claims 17-19 are allowable for at least the same reasons as claim 16.

Claim 20. Claim 20 has been amended in a manner analogous to Claim 16 and it is respectfully submitted that claim 20 is allowable for at least substantially the same reasons as claim 16.

Claims 21-23. As to claims 21-23, it is respectfully submitted that claims 21-23 are dependent, directly or indirectly, upon claim 20 therefore it is respectfully submitted that claims 21-23 are allowable for at least the same reasons as claim 20.

Claim 24. Claim 24 has been amended in a manner analogous to Claim 20 and it is respectfully submitted that claim 24 is allowable for at least substantially the same reasons as claim 20.

Claims 25-27. As to claims 25-27, it is respectfully submitted that claims 25-27 are dependent, directly or indirectly, upon claim 24 therefore it is respectfully submitted that claims 25-27 are allowable for at least the same reasons as claim 24.

Claim 28. Claim 28 has been amended in a manner analogous to Claim 1 and it is respectfully submitted that claim 28 is allowable for at least substantially the same reasons as claim 1.

Claim 29-33. As to claim 29-33, it is respectfully submitted that claim 29-33 is dependent upon claim 28 therefore it is respectfully submitted that claim 29-33 is allowable for at least the same reasons as claim 28.

Claim 34. Claim 34 has been amended in a manner analogous to Claim 7 and it is respectfully submitted that claim 34 is allowable for at least substantially the same reasons as claim 7.

Claims 35-38. As to claims 35-38, it is respectfully submitted that claims 35-38 are dependent, directly or indirectly, upon claim 34 therefore it is respectfully submitted that claims 35-38 are allowable for at least the same reasons as claim 34.

Claim 39. Claim 39 has been amended in a manner analogous to Claim 12 and it is respectfully submitted that claim 39 is allowable for at least substantially the same reasons as claim 12.

Claims 40-42. As to claims 40-42, it is respectfully submitted that claims 40-42 are dependent, directly or indirectly, upon claim 39 therefore it is respectfully submitted that claims 40-42 are allowable for at least the same reasons as claim 39.

SUMMARY

Reconsideration of this application is respectfully requested. Claims 1-42 remain in the application. Claims 1, 7, 12, 16, 20, 28, 34 and 39 have been amended.. No Claims have currently been added.

It is respectfully submitted that all rejections have been overcome and that all pending claims are in condition for allowance. Reconsideration of the application and allowance of pending claims 1 42 is respectfully requested.

Invitation for a telephone interview


The Examiner is invited to call the undersigned at 408-720-8300 if there remains any issue with allowance of this case.


Charge our Deposit Account

Please charge any shortages and credit any overages to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP


1/06
Date: ~~12/03~~, 2006



H. Henry Black
Reg. No. 43,320

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025-1026
(408) 720-8300